

## **ELIGIBILITY DETERMINATION**

**1. REASON FOR ISSUE:** This Veterans Health Administration (VHA) directive sets Department of Veterans Affairs (VA) policy on determining eligibility for VA health care benefits and provides procedures for identifying individuals who have been determined to be ineligible for VA medical benefits for non-service-connected conditions.

### **2. SUMMARY OF MAJOR CHANGES:**

a. Amendment dated April 25, 2022 includes the following changes:

(1) Adds NA Form 13038, Certification of Military Service, to the list of documents that are accepted as proof of military service (see Appendix B).

(2) Clarifies documents that are acceptable as proof of service in the Republic of Vietnam, (see paragraph 8 (b)).

(3) Adds suicide prevention and mental health care services for current members of the Reserves as authorized by P.L.116-283, (see paragraph 12).

(4) Adds information related to the Veterans Comprehensive Prevention, Access to Care, and Treatment Act of 2020 in Appendix E, Eligibility for Mental Health and Behavioral Healthcare for Other Than Honorable Former Servicemembers (see page E-2).

b. Amendment dated June 4, 2021, to reflect new military sexual trauma (MST) provisions in P.L. 116-315 § 5301. The amendment updates the definition of MST (see paragraph 2.I.), updates eligibility criteria for MST treatment under 38 U.S.C. § 1720 F (see paragraph 9.h.) and simplifies the language for mental health eligibility under 38 U.S.C. § 1720I (see Appendix E). The amendment also clarifies the requirements for accepting DD Form 256 as proof of military service (see Appendix B).

c. Amendment dated October 15, 2020, adds a reference on page 10 to the regulatory definition of Active Duty, for the purposes of this directive.

d. This recertified directive updates the roles and responsibilities at all levels of VHA related to the eligibility determination process.

e. This directive also combines three distinct eligibility directives, VHA Directive 1127, Provision of Health Care Services to Veterans Involved in Project 112-Shipboard Hazard and Defense (SHAD) Testing, dated March 24, 2015; VHA Directive 1606(1), Health Care Benefits for Combat Theater Veterans, dated June 22, 2015; and VHA Directive 1182, Vocational Rehabilitation: Chapter 31 Benefits Timely Access to Health

Care Services, dated April 02, 2015, into the larger eligibility directive for ease of use and readability.

**3. RELATED ISSUES:** VHA Directive 1601A.01, Registration and Enrollment, dated July 7, 2020; VHA Directive 1630(1), Catastrophically Disabled Veteran Evaluation, Enrollment, and Certain Copayment Exemptions, dated May 07, 2015; VHA Handbook 1000.02, VHA Fugitive Felon Program, dated February 23, 2012, or subsequent publication date; VHA Directive 1301, Ionizing Radiation Registry (IRR) Program, dated April 6, 2017; VHA Directive 1302, Agent Orange Registry (AOR) Program, dated December 7, 2016.

**4. RESPONSIBLE OFFICE:** The VHA Office of Member Services (10NF) is responsible for the contents of this directive. Questions regarding Eligibility Determinations may be referred to the Member Services Business Policy Office by e-mail to [VHAMSBusinessPolicyOffice@va.gov](mailto:VHAMSBusinessPolicyOffice@va.gov).

**5. RESCISSIONS:** VHA Directive 1601A.02, Eligibility Determination, dated November 21, 2018; VHA Directive 1127, Provision of Health Care Services to Veterans Involved in Project 112-Shipboard Hazard and Defense (SHAD) Testing, dated March 24, 2015; VHA Directive 1606(1), Health Care Benefits for Combat Theater Veterans, dated June 22, 2015; VHA Directive 1182, Vocational Rehabilitation: Chapter 31 Benefits Timely Access to Health Care Services, dated April 02, 2015, and VHA Directive 2007-012, Eligibility Verification Process for VA Health Care Benefits, dated April 12, 2007, are rescinded.

**6. RECERTIFICATION:** This VHA directive is scheduled for recertification on or before the last working day of July 2025.

**BY DIRECTION OF THE OFFICE OF THE  
UNDER SECRETARY FOR HEALTH:**

/s/ Renee Oshinski  
Assistant Under Secretary for Health for  
Operations

**NOTE:** All references herein to VA and VHA documents incorporate by reference subsequent VA and VHA documents on the same or similar subject matter.

**DISTRIBUTION:** Emailed to the VHA Publications Distribution List July 8, 2020.

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## ELIGIBILITY DETERMINATION

### 1. PURPOSE

This Veterans Health Administration (VHA) directive sets policy and procedures for determining eligibility for Department of Veterans Affairs (VA) health care benefits.

**AUTHORITY:** 38 U.S.C. §§ 1710, 7301(b).

### 2. DEFINITIONS

a. **Catastrophic Disability.** A catastrophic disability is a permanent, severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others. **NOTE:** *For additional information on Catastrophically Disabled Veterans, see VHA Directive 1630(1), Catastrophically Disabled Veteran Evaluation, Enrollment, and Certain Copayment Exemptions, dated July 28, 2015.*

b. **Compensable Service-Connected Disability.** A compensable service-connected (SC) disability is a disability rated by VA to be service connected and for which VA monetary compensation is authorized.

c. **Disability Compensation.** For the purposes of this directive, disability compensation means a monthly monetary benefit paid to Veterans with disabilities that are the result of a disease or injury incurred or aggravated during active military service. Generally, the benefit amount is graduated according to the degree of the Veteran's disability on a scale from 10% to 100% (in increments of 10%).

d. **Enrollment.** Enrollment is the acceptance of an eligible Veteran into the VA health care system and assignment to a Priority Group for the purpose of receiving the full medical benefits package as defined in 38 C.F.R. § 17.38.

e. **Extended Care.** Extended care refers to the range of residential and community-based programs available for supporting, with maximum safe independence, individuals who experience compromised self-care ability due to accumulated chronic diseases, injuries and resulting disability, regardless of age. A newer, term, essentially equivalent to extended care is long term services and supports. **NOTE:** *For additional information, see VHA Directive 1140.11, Uniform Geriatrics and Extended Care Services in VA Medical Centers and Clinics, dated October 11, 2016.*

f. **Extended Care Services.** Extended care services consist of geriatric evaluation; nursing home care; domiciliary services; adult day health care; non-institutional palliative care, non-institutional hospice care, and home health care when there is no institutional alternatives to nursing home care; and respite care.

g. **Former Prisoner of War.** A Former Prisoner of War (POW) is a person who, while serving in the active military, naval, or air services, was forcibly detained by restraint, custody, or internment in the line of duty by:

(1) An enemy government or its agents, or a hostile force, during a period of war.

(2) A foreign government, its agents, or a hostile force, under circumstances which the Secretary of VA finds to have been comparable to the circumstances under which persons have generally been forcibly detained or interned by enemy governments during periods of war. **NOTE:** *POW statuses must be verified using all verifiable source documents and military verification systems. For more information on military verification systems, see Paragraph 4.d.(6).*

h. **Fugitive Felon.** A fugitive felon is an individual who is fleeing to avoid prosecution, custody, or confinement for a felony offense; or violating a condition of probation or parole imposed for commission of a felony offense.

i. **Former Servicemember.** A former Servicemember is an individual who has separated from active military service.

j. **Ineligible Former Servicemember.** An ineligible former Servicemember is an individual with a dismissal, dishonorable discharge, or bad conduct discharge from a general court-martial. An individual with a bad conduct discharge from a special court-martial is an ineligible former Servicemember unless that individual has received a favorable character of service determination from VA.

k. **Medical Benefits Package.** The medical benefits package is the set of health care services available to Veterans enrolled in the VA Health Care System. **NOTE:** *For a list of services included in or excluded from the benefits package, see 38 C.F.R. § 17.38.*

l. **Military Sexual Trauma.** Military sexual trauma (MST) refers to sexual assault or threatening sexual harassment which occurred while the former Service member was serving on duty, regardless of duty status or line of duty determination. **NOTE:** *For MST eligibility criteria, see Paragraph 9.h.*

m. **Minimum Active Duty Requirement.** Individuals who enlisted after September 7, 1980, or entered active duty after October 16, 1981, must have served 24 continuous months or the full period for which they were called to active duty. **NOTE:** *For exceptions to the minimum active duty service requirements, see Appendix A.*

n. **Nonservice-Connected.** Nonservice-connected (NSC) means, with respect to a Veteran's disability, that such disability was not incurred or aggravated, in the line of duty in the active military, naval, or air service.

o. **Non-compensable Disability.** A non-compensable disability is a service-connected disability for which VA has assigned a 0% rating.

p. **Period of Hostilities.** Period of hostilities refers to an armed conflict in which members of the United States Armed Forces are subjected to danger comparable to danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary in

consultation with the Secretary of Defense. **NOTE:** For additional information on period of hostilities, see 38 C.F.R. § 1.945(c)(2).

q. **Priority Groups.** Priority Groups are established by 38 U.S.C. § 1705 to determine which categories of Veterans are eligible to be enrolled. All enrolled Veterans must be placed in the highest Priority Group for which they are qualified. **NOTE:** For additional information on Priority Groups, see VHA Directive 1601A.01 Registration and Enrollment, dated July 7, 2020.

r. **Respite Care.** Respite care is care of limited duration, furnished on an intermittent basis to a Veteran who is suffering from a chronic illness and who resides primarily at home, and is furnished for the purpose of helping the Veteran to continue residing at home.

s. **Vet Centers.** Vet Centers are community-based counseling centers that provide a wide range of social and psychological services, including professional readjustment counseling to eligible Veterans, active duty Servicemembers, including National Guard and Reserve components, and families.

t. **Vocational Rehabilitation and Employment Program.** A Vocational Rehabilitation and Employment Program is a program to provide services and assistance necessary to enable Servicemembers and Veterans with service-connected disabilities and an employment barrier to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain employment. **NOTE:** For additional information on eligibility and care for Veterans participating in a Vocational Rehabilitation and Employment Program, see Paragraph 9.i.

### 3. POLICY

It is VHA policy that Veterans receive VA health care benefits based on eligibility as defined by applicable statutes and regulations.

### 4. RESPONSIBILITIES

a. **Under Secretary for Health.** The Under Secretary for Health is responsible for overall VHA compliance with this directive.

b. **Assistant Under Secretary for Health for Operations.** The Assistant Under Secretary for Health for Operations is responsible for:

(1) Communicating the contents of this directive to each of the Veterans Integrated Services Networks (VISNs).

(2) Providing assistance to VISN Directors to resolve implementation and compliance challenges.

(3) Ensuring that the Member Services Director has sufficient resources to fulfill the terms of this directive.

(4) Providing oversight of VISNs and Member Services to ensure compliance with this directive, and applicable statutes and regulations.

c. **Member Services Director.** The Member Services Director is responsible for:

(1) Providing oversight of the Health Eligibility Center (HEC) to ensure compliance with this directive, and applicable statutes and regulations.

(2) Ensuring that Member Services staff have the resources to implement this directive.

(3) Providing appropriate oversight to ensure the accuracy of the Knowledge Management System (KMS) content, to include Knowledge Management (KM) articles, SOPs, business processes, and job aids.

d. **Health Eligibility Center Director.** The HEC Director is responsible for:

***NOTE: Eligibility Responsibilities for the HEC Enrollment and Eligibility staff in this directive are aligned with enrollment responsibilities defined in VHA Directive 1601A.01 Registration and Enrollment.***

(1) Providing oversight of the HEC Enrollment and Eligibility staff to ensure that HEC staff is verifying and establishing eligibility for VA health care benefits, to include Priority Group assignment, income verification, and processing secondary review requests.

***NOTE: For more information on income verification and secondary review, please see VHA Directive 1601A.01 Registration and Enrollment.***

(2) Establishing, publishing, and ensuring VA medical facilities are aware of protocols to request changes to eligibility data elements in the Enrollment System (ES), Electronic Health Record (EHR) and VA/DOD electronic verification systems.

(3) Providing oversight of the HEC Enrollment and Eligibility staff to ensure that when individuals apply for VA health care benefits, they are notified in writing of the initial eligibility status. This notification must include eligibility for VA health care benefits, eligibility and enrollment information, Veteran's Priority Group assignment (if applicable), VA privacy practices, and VA Form 10-0998, Your Rights to Seek Further Review of Our Healthcare Benefits Decision. ***NOTE: Additional information on benefit appeals can be found in VHA Notice 2021-01(1), The Appeals Modernization Act, dated January 4, 2021, or subsequent publication. VA Form 10-0998 can be accessed at <https://www.va.gov/vaforms/medical/pdf/10-0998%20online%20corrected.pdf>.***

(4) Providing oversight of the Enrollment and Eligibility staff to ensure verified eligibility records that are believed to be erroneous are reviewed and corrected, if necessary.



(5) Ensuring that HEC Enrollment and Eligibility staff determine eligibility for all Veterans who are eligible for VA health care based on receipt of the Purple Heart or Medal of Honor, Agent Orange exposure, or applications that are potentially covered by the VHA Fugitive Felon Program, even if the application is initially submitted to a VA medical facility. **NOTE:** *In situations when the Veteran has an immediate medical need, VA medical facility enrollment staff should call HEC Enrollment and Eligibility staff after submitting the HEC alert so the Veteran's application can be processed immediately, and the Veteran can be notified of the eligibility status.*

(6) Ensuring that HEC Enrollment and Eligibility staff is making every effort to obtain a Veteran's military service information by accessing all available electronic sources including but not limited to, Hospital Inquiry module (HINQ), Veterans Information System (VIS), Veterans Benefits Management System (VBMS), SHARE or the Defense Personnel Records Information Retrieval System (DPRIS). **NOTE:** *If a Veteran's DD Form 214 is not found after searching all available military verification systems, VHA Enrollment and Eligibility staff should assist the Veteran in completing Standard Form 180 (SF-180), Request Pertaining to Military Records to obtain a copy of the DD Form 214, Report of Separation from Active Duty from the National Personnel Records Center (NPRC). Additional information on requesting military service records from NPRC can be accessed using the following link:*  
<https://www.archives.gov/veterans/military-service-records>.

(7) Ensuring HEC Enrollment and Eligibility staff is assisting Veterans with obtaining documentation of military service. **NOTE:** *For more information on proof of military service, see Paragraph 7.*

(8) Proving oversight of the HEC Enrollment and Eligibility staff to ensure that financial information is collected from applicants to determine eligibility for medical care and copayment responsibilities.

(9) Ensuring that HEC Enrollment and Eligibility staff is contacting Veterans if financial information is received that indicates a change in VA health care benefits. **NOTE:** *Veterans should be advised that they may provide changes to income at any time, including deductible expenses, that may impact eligibility status.*

(10) Ensuring that HEC Enrollment and Eligibility staff is scanning a copy of all documentation provided by the Veteran to support the application, including but not limited to, proof of military service, medical information, and financial information, into ES.

(11) Ensuring that HEC Enrollment and Eligibility staff is generating and disseminating written notifications to Veterans before changing the eligibility or enrollment status.

(12) Ensuring HEC Enrollment and Eligibility staff are processing all Veteran requests for secondary review of eligibility decisions.

e. **Veterans Integrated Service Network Director.** The VISN Director is responsible for:

(1) Providing oversight of VA medical facilities within the VISN to ensure compliance with this directive, and applicable statutes and regulations, and informing leadership when barriers to compliance are identified.

(2) Communicating the contents of this directive to all VA medical facilities within the VISN.

(3) Ensuring that all VA medical facilities in the VISN have the resources to implement this directive.

f. **VA Medical Facility Director.** The VA Medical Facility Director is responsible for:

***NOTE: Eligibility Responsibilities for the VA Medical Facility Director in this directive are aligned with enrollment responsibilities defined in VHA Directive 1601A.01 Registration and Enrollment.***

(1) Ensuring that this directive is implemented at the VA medical facility.

(2) Maintaining oversight of all administrative aspects of VA medical facility eligibility determinations to include establishing written procedures to ensure that applicants and patients with medical or psychiatric problems are screened to determine if the need is emergent or urgent. ***NOTE: Additional information on humanitarian care for ineligible applicants with emergent conditions can be found in Paragraph 16.***

(3) Ensuring there is a process in place to determine the appropriateness of VA medical care and services for Veterans participating in a VA Vocational Rehabilitation Program as described in Paragraph 9.i.

g. **VA Medical Facility Chief of Staff.** The VA Medical Facility Chief of Staff (COS) is responsible for:

(1) Determining eligibility for Catastrophically Disabled Veterans.

(2) Providing guidance to VA health care providers regarding the exercise of clinical judgment in determining whether a Veteran's condition may be related to the Veteran's service in a combat theater. ***NOTE: For additional information on clinical judgment related to Combat Theater Veterans, see Paragraph 8.e.(3).***

(3) Ensuring VA health care providers consider the following types of conditions, which are not ordinarily considered to be associated with occupational or military activities, when making the determination if the illness or disability is possibly related to a Veteran's participation in Project 112/SHAD:

(a) Congenital or developmental conditions (e.g. scoliosis).

(b) Conditions which are known to have existed before military service.

(c) Conditions having a specific and well-established etiology and began after military service ceased (e.g. bone fractures occurring after separation from military service, a common cold, etc.). **NOTE:** For additional information on Project 112/SHAD Veterans, see Paragraph 8f., of this directive.

h. **VA Medical Facility Enrollment Coordinator.** The VA medical facility Enrollment Coordinator is responsible for:

**NOTE:** Eligibility Responsibilities for the VA medical facility Enrollment Coordinator in this directive are aligned with enrollment responsibilities defined in VHA Directive 1601A.01 Registration and Enrollment.

(1) Ensuring that all VA Medical Facility Enrollment and Eligibility staff receive standardized eligibility training. **NOTE:** More information on training can be found in Paragraph 17.

(2) Serving as a liaison between the VA Medical Facility, the HEC, and Member Services.

(3) Managing access to VA/DoD electronic verification systems used in determining eligibility for VA health care benefits.

i. **VA Medical Facility Enrollment and Eligibility Staff.** The VA Medical Facility Enrollment and Eligibility staff are responsible for:

**NOTE:** Eligibility Responsibilities for VA medical facility Enrollment and Eligibility staff in this directive are aligned with enrollment responsibilities defined in VHA Directive 1601A.01 Registration and Enrollment.

(1) Maintaining accurate knowledge of all possible Veteran eligibility statuses and processes for verifying a Veteran's eligibility.

(2) Ensuring eligibility status for Veterans who are eligible to receive medical care under this directive based on military service record and dates of service are verified.

(3) Authorizing emergent treatment services in cases where eligibility cannot be immediately established and following up as appropriate by submitting VA Form 20-0986, Eligibility Determination for COD Request Form, to VBA for verification and tracking to final determination. **NOTE:** VA Form 20-0986 can be accessed using the following link: <https://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-20-0986-ARE.pdf>. This is an internal website that is not available to the public.

(4) Ensuring if a verified eligibility record is believed to be erroneous, supporting documentation is submitted to the HEC for review and correction of the verified eligibility record.

(5) Ensuring Veterans who are determined to be ineligible and have no SC conditions are accurately identified in the EHR.

(6) Establishing eligibility for treatment of SC disabilities rated 0 % and annotating the EHR of Veterans who are otherwise determined ineligible because they fail to meet the minimum active duty service requirements. **NOTE:** *For additional information on minimum active duty service requirements see 38 U.S.C. § 5303A. Information on 0 % non-compensable SC Veterans, can be accessed using the following link: [https://vaww.vrm.km.va.gov/system/templates/selfservice/va\\_kanew/help/agent/locale/en-US/portal/554400000001046/content/554400000091178/VAMC-Enroll-Elig-Non-Compensable-0-Percent-Service-Connected-Veterans?query=Treat%20for%20SC%20only](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001046/content/554400000091178/VAMC-Enroll-Elig-Non-Compensable-0-Percent-Service-Connected-Veterans?query=Treat%20for%20SC%20only). This is an internal VA website that is not available to the public.*

(7) Ensuring that a Veteran who is determined to be ineligible is accurately identified in ES so written notification of this determination can be mailed. This notification must include the reason the individual is ineligible and VA Form 10-0998, Your Rights to Seek Further Review of Our Healthcare Benefits Decision. **NOTE:** *Additional information on benefit appeals can be found in VHA Notice 2021-01(1), The Appeals Modernization Act, dated January 4, 2021, or subsequent publication. VA Form 10-0998 can be accessed at <https://www.va.gov/vaforms/medical/pdf/10-0998%20online%20corrected.pdf>.*

(8) Informing Combat Veterans, as described in Paragraph 8e(4) of this directive, the benefits of disclosing income information during the enrollment process, even though income information from these Veterans is not required for enrollment. *If a Veteran declines to provide income information, the Veteran must agree to pay any applicable copayments for care or services for any disability or condition that is determined by VHA not to be related to service in a combat theater.*

(9) Recording the name of the specific Project 112/SHAD test or tests in which a Veteran participated while in military service and possible exposures in the Veteran's EHR. **NOTE:** *This data must be obtained from the Veteran or from the notification letter the Veteran received from the Veterans Benefit Administration (VBA). Additional information on Project 112/SHAD Veterans can be found in Paragraph 8.f.*

(10) Determining whether a Veteran who is seeking care on the basis of presumptive eligibility for psychosis and mental illness other than psychosis, as described in Paragraph 10 of this directive, has any other basis of eligibility for VA health care benefits. **NOTE:** *For operational purposes, Veterans who are otherwise ineligible and who are presumed to have or report psychosis are added into ES using VBA disability rating code 9410 (other neurosis). This does not grant a VBA disability award but allows for the treatment of the Veteran. For additional information on Presumptive Eligibility for Psychosis and Mental Illness other than Psychosis, see 38 C.F.R. § 17.109.*

(11) Ensuring that former Servicemembers with Other Than Honorable (OTH) discharges who are eligible under authority 38 U.S.C. § 1720I are added into ES using VBA code 9410 (other neurosis).

(12) Assisting Veterans in obtaining service-related documentation of eligibility.

**NOTE:** For more information on proof of military services, see Paragraph 7.

## 5. TENTATIVE ELIGIBILITY FOR VA CARE

a. Criteria for when tentative eligibility determinations are appropriate can be found at 38 C.F.R. § 17.34.

b. Emergency mental health care may be provided under 38 C.F.R. § 17.34 to former Servicemembers with OTH discharges who present with a mental health condition they assert, or a VA health care provider reasonably believes, is related to military service. OTH former Servicemembers receiving emergent mental health care under this authority may receive stabilization treatment, including necessary inpatient care. After 90 days of treatment, the need for treatment is reassessed to determine if the emergent circumstance persists. **NOTE:** OTH former Servicemembers may also be eligible to receive care under presumptive eligibility for psychosis or other mental illness, 38 U.S.C. § 1702 and 38 C.F.R. § 17.109, as described in Paragraph 10 of this directive, and mental and behavioral health care under 38 U.S.C. § 1720I, as described in Paragraph 11 of this directive.

c. The applications of individuals receiving care under tentative eligibility are placed in a Pending Verification status until a final eligibility determination for VA health care is made. Individuals who ultimately are determined ineligible for VA health care are billed for the care and services they received. **NOTE:** For more information, see 38 U.S.C. § 1784 and 38 C.F.R. § 17.102(a).

## 6. BASIC ELIGIBILITY REQUIREMENTS FOR VA HEALTH CARE

### a. Enrollment as a Condition of Receiving Hospital Care and Medical Services.

(1) Veterans must enroll with VA to receive VA health care benefits, unless one of the exemptions in 38 C.F.R. § 17.37 applies.

(2) OTH former Servicemembers may receive mental or behavioral health care under 38 U.S.C. § 1720I. **NOTE:** For additional information on OTH former Servicemembers, see Appendix E of this directive.

b. **Basic Eligibility Criteria for VA Health Care.** Individuals generally must meet the following basic eligibility criteria to receive VA health care:

(1) Other than a dishonorable COD, as described in Paragraph 6.c.

(2) Served a minimum period of active duty as outlined in Paragraph 6.d.

(3) Served in the active military, naval, or air service. **NOTE:** A complete list of individuals and groups considered to have performed Active Military, Naval or Air Service, can be accessed at 38 C.F.R. 17.31 by using the following link:

[https://www.ecfr.gov/cgi-bin/text-idx?SID=a9dd8355d8932087385f7bd70767be13&mc=true&node=se38.1.17\\_131&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=a9dd8355d8932087385f7bd70767be13&mc=true&node=se38.1.17_131&rgn=div8).

c. **Character of Discharge Requirements.** Unless an exception applies, to qualify for VA health care benefits, an individual's discharge or release from active military service must be under conditions other than dishonorable (Honorable, General, see 38 U.S.C. § 101(2), 5303, and 38 C.F.R. § 3.12). **NOTE:** A discharge under honorable conditions satisfies this requirement. Some other discharges require VA to make a COD determination in order to assess VA eligibility. VA Form 20-0986, Eligibility Determination for COD Request, is completed by VA medical facility staff to request a character of service determination by the Veterans Benefits Administration (VBA). The form can be accessed by using the link below:

<https://vbaw.vba.va.gov/bl/20/cio/20s5/forms/VBA-20-0986-ARE.pdf>. This is an internal VA website that is not available to the public.

d. **Minimum Active Duty Service Requirements.** Except as provided in Appendix A of this directive or otherwise exempted by statute, Veterans must meet the minimum active duty service requirements for VA eligibility, as established in 38 U.S.C. § 5303A.

## 7. PROOF OF MILITARY SERVICE

A Veteran's service record information, which includes length, time, and character of service, must be collected at the time of the application for benefits. This information may be found:

- a. In military records provided by the Veteran at the time of application.
- b. In the EHR for Veterans who may have previously applied for VA health care benefits. Inquiries into the EHR may only be submitted by an authorized VHA employee.
- c. HEC and VA medical facility enrollment and eligibility staff have the duty to assist Veterans who wish to enroll in VA health care to obtain service-related documentation of eligibility.

**NOTE:** For documents that can be used as proof of military service, see Appendix B.

## 8. ELIGIBILITY BASED ON EXPOSURE TO ENVIRONMENTAL CONTAMINANTS

a. **Authority for Treatment of Exposure to Radiation, or Other Conditions Defined by Law.** Veterans claiming exposure to Ionizing Radiation or Agent Orange, service in the Gulf War, service in a combat-theater, Project 112/SHAD testing, or active duty at Camp Lejeune are provided services in accordance with applicable VA statute and regulation. VA will provide copayment and third-party billing exemption for hospital care, medical services, nursing home care, and medications prescribed on an outpatient

basis for any condition possibly associated with these exposures. Copayments may be assessed for care not related to the qualifying exposure. **NOTE:** *For additional information on inpatient, outpatient, medications, and extended care copayments for treatment related to special eligibilities, see 38 C.F.R. § 17.108(e)(2). Veterans seeking urgent care in the community may also be charged a copayment for conditions not covered by this special authority and based on the frequency of urgent care visits. See 38 C.F.R. 17.4600 for additional information.*

**b. Vietnam-era Herbicide Exposed Veterans.** A Veteran who served on active duty in the Republic of Vietnam during the period from January 9, 1962, and ending May 7, 1975, is eligible for VA health care. For purposes of determining eligibility for VA health care, VA presumes herbicide exposure for any Veteran who physically served in or visited the Republic of Vietnam during the specified period including conducting operations on offshore naval vessels (“blue waters”) or vessels on the inland rivers and delta areas (“brown water”) of the Republic of Vietnam.

(1) **Proof of Service in the Republic of Vietnam.** The following source documents and other factors must be evaluated when determining proof of service in the Republic of Vietnam:

(a) DD Form 214 or Military Orders for Vietnam

(b) Receipt of one or more of the following medals: Vietnam Service Medal, Vietnam Campaign Medal, Armed Forces Expeditionary Medal, Republic of Vietnam Gallantry Cross Medal, or TET Offensive Ribbon. **NOTE:** *For additional information on proof of service in the Republic of Vietnam, see [https://vawww.vrm.km.va.gov/system/templates/selfservice/va\\_kanew/help/agent/local/en-US/portal/55440000001046/content/554400000049153/Agent-Orange-Exposure](https://vawww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/local/en-US/portal/55440000001046/content/554400000049153/Agent-Orange-Exposure). This is an internal VA website not available to the public.*

(2) **Presumption of Herbicide Exposure:** A Veteran who served on active duty in the Republic of Vietnam as specified above is eligible for VA health care for any disability even in cases where there may be insufficient clinical evidence to conclude that such disability may be associated with herbicide exposure. **NOTE:** *Criteria for the presumption that Vietnam era Veterans were exposed to herbicides can be found at 38 C.F.R. § 3.07(a)(6)(iii). For additional information on policy related to VA’s Agent Orange Registry Program, see VHA Directive 1308, Health Outcomes Military Exposures Registry Programs, dated March 25, 2022.*

**c. Persian Gulf Veterans.** A Veteran or member of a reserve component of the armed forces who served on active duty in the Southwest Asia theater of operations during the Persian Gulf between August 2, 1990, and November 11, 1998, is eligible for VA health care for any disability, even if there is insufficient medical evidence to conclude that such condition may be associated with service in the Persian Gulf. A VA health care provider determines whether a Veteran’s disability is associated with service in the Persian Gulf under special treatment authority 38 U.S.C § 1710(c)(d).



d. **Radiation-Exposed Veteran.** A Veteran who, while serving on active duty, participated in a radiation-risk activity, or an individual who, while a member of a reserve component of the Armed Forces, participated in a radiation-risk activity during a period of active duty for training or inactive duty training. ***NOTE: For additional information regarding what constitutes radiation exposure for this special treatment eligibility, and information on VA's Ionizing Radiation Registry Program, see VHA Directive 1301, Ionizing Radiation Registry (IRR) Program, dated April 6, 2017.***

(1) VA has the authority to provide hospital care and medical services to Veterans exposed to radiation for any qualified presumptive disease. These Veterans are unofficially referred to as Atomic Veterans.

(2) VA considers a Veteran exposed to a radiation risk activity in cases where:

(a) The Veteran was involved with the onsite participation in a test involving the atmospheric detonation of a nuclear device (without regard to whether the nation conducting the test was the United States or another nation);

(b) The Veteran participated in the occupation of Hiroshima or Nagasaki from August 6, 1945, through July 1, 1946;

(c) The Veteran was subjected to internment as a Prisoner of War in Japan, or service on active duty in Japan immediately following such internment, during World War II, which is determined by the Secretary of VA to have resulted in an opportunity for exposure to ionizing radiation (IR) comparable to that of Veterans described immediately above in (b); or

(d) The Veteran performed service in a capacity which, if performed as an employee of the Department of Energy, would qualify the individual for inclusion as a member of the Special Exposure Cohort under section 3621(14) of the Energy Employees Occupational Illness Compensation Program Act of 2000, (42 U.S.C. § 7384 et seq).

(3) **Only the HEC may make Ionizing Radiation eligibility determinations.** The HEC's determination becomes VHA's authoritative source for health care eligibility. In cases where the HEC cannot verify a Veteran's eligibility for Priority Group 6, based on exposure to Ionizing Radiation, the HEC will transmit a copy of the Veteran's relevant eligibility information by fax to the Defense Threat Reduction Agency (DTRA), for further verification.

e. **Combat-Theater Veterans.**

(1) Combat-theater Veterans are eligible for VA health care and are to be placed in Priority Group 6 for a 5-year period following the latest separation or release from military service, even if there is insufficient evidence to conclude that the illness or injury is attributable to the combat service.

(a) Combat-theater Veterans are to receive copayment-free VA inpatient and outpatient care, outpatient medications, and extended care for any illness or injury



related to the combat service. VA will not bill third parties for the costs of such care and services.

(b) Copayments will apply to VA care and services furnished for any illness or injury that a VA health care provider determines is not related to the Veteran's combat service. In such cases, third-party billing may occur.

**NOTE:** *Veterans seeking urgent care in the community may also be charged a copayment for conditions not covered by this special authority and based on the frequency of urgent care visits. See 38 C.F.R. 17.4600 for additional information.*

(2) The 5-year period also:

(a) Allows for the collection of basic health information to aid in the evaluation of specific health questions, such as those related to difficult to diagnose illnesses; and

(b) Provides the Combat Veteran time to apply for a service-connected disability rating for illness or injury incurred during the combat service.

(3) VHA health care providers have wide latitude in exercising clinical judgment in determining whether a Veteran's condition may be related to the Veteran's service in a combat theater. This is strictly an individual clinical determination; as such, it is not subject to the same rigor or standards used by the Veterans Benefits Administration (VBA) in adjudicating a disability claim or awarding a service-connected rating. It therefore requires only a possibility in the clinical judgment of the Veteran's health care provider that the condition may be so related or associated; it does not provide definitive evidence of causation or association. In accordance with 38 U.S.C. § 1710(e)(2)(B), certain conditions are not considered related to combat-service. These conditions include, but are not limited to:

(a) Congenital or developmental conditions, (e.g., scoliosis).

(b) Conditions which are known to have existed before military service unless there is an indication that the preexisting condition has been aggravated or exacerbated by combat service.

(c) Conditions having a specific and well-established etiology and began after military combat service (e.g., bone fractures occurring after separation from military service, a common cold, etc.).

(4) After a combat-theater Veteran's 5-year period of enrollment in Priority Group 6 ends, the Veteran is to remain continuously enrolled in VA's health care system but moved to the appropriate Priority Group. If placed in a lower Priority Group and/or depending on income level, the Veteran may be required to make applicable copayments in connection with the receipt of VA care and services (including the types of care and services previously furnished to the Veteran at no-cost when the Veteran was enrolled in Priority Group 6).

**NOTE:** For information regarding the locations and periods of service that qualify as theaters of combat operations and sets forth the evidence or documentation needed to establish a Veteran's service in a combat-theater, see Appendix G.

f. **Project 112/SHAD Veterans.** Veterans are offered enrollment in the VA Health Care System, with no cost for treatment for conditions that are clinically determined to be related to Project 112/SHAD exposures.

(1) Project 112/SHAD Veterans are enrolled in Priority Group 6 if they are not eligible for enrollment in a higher Priority Group.

(2) When initially enrolled in VA health care, Project 112/SHAD Veterans are not exempt from the requirement to complete a Financial Assessment (Means Test). VA may charge a copayment for care for conditions found to have resulted from causes other than participation in Project 112/SHAD tests. **NOTE:** For additional information on enrollment, see VHA Directive 1601A.01 Registration and Enrollment, and for additional information on financial assessments, see VHA Directive 1909, Income Verification (IV) Program, dated June 10, 2020.

**NOTE:** Veterans seeking urgent care in the community may also be charged a copayment for conditions not covered by this special authority and based on the frequency of urgent care visits. See 38 C.F.R. 17.4600 for additional information.

g. **Camp Lejeune Veterans.** A Veteran served at Camp Lejeune if they were stationed at Camp Lejeune or traveled to Camp Lejeune as part of professional duties, while on active duty for not fewer than 30 days, during the period beginning August 1, 1953 and ending on December 31, 1987. These Veterans are enrolled in Priority Group 6 if they are not eligible for enrollment in a higher Priority Group. **NOTE:** Veterans may be charged copayments for treatment of illnesses and medical conditions not related to Camp Lejeune environmental contaminants. For additional information on the 15 medical conditions related to Camp Lejeune, see 38 U.S.C. § 1710(e)(1)(F) and 38 C.F.R. § 17.400.

**NOTE:** Veterans seeking urgent care in the community may also be charged a copayment for conditions not covered by this special authority and based on the frequency of urgent care visits. See 38 C.F.R. 17.4600 for additional information.

## 9. ELIGIBILITY FOR SPECIFIC CATEGORIES OF VETERANS

a. **Catastrophically Disabled.** Veterans determined Catastrophically Disabled are placed into Priority Group 4 unless eligible for a higher Priority Group placement based on other eligibility criteria such as being a compensable service-connected Veteran, a former Prisoner of War, or a Medal of Honor or Purple Heart recipient. The Catastrophic Disability determination is made through clinical examination or review of medical records by the Chief of Staff (or equivalent clinical official) at the VA medical facility where the patient was examined.

**NOTE:** For additional information regarding catastrophically disabled diagnoses, see *Catastrophically Disabled Veteran Evaluation Reports Page*, at [http://vaww4.va.gov/VHAOPP/cdvet\\_eval.asp](http://vaww4.va.gov/VHAOPP/cdvet_eval.asp). This is an internal VA website not available to the public.

b. **Fugitive Felons.** Veterans who are fugitive felons and beneficiaries who are determined to be fugitive felons are not eligible for VA health care benefits during the time the VA beneficiary is in a fugitive status. **NOTE:** *When the Veteran is a fugitive felon neither the Veteran nor beneficiary is eligible for benefits during the time the Veteran is in a fugitive status. For additional information on fugitive felons, see VHA Handbook 1000.02, VHA Fugitive Felon Program, dated February 23, 2012.*

c. **Head and Neck Cancer.** A Veteran is eligible for a screening examination, hospital care, medical services, and nursing home care needed for treatment of any cancer of the head or neck which the VA finds may be associated with receipt of nasopharyngeal (NP) radium irradiation treatments in active military, naval, or air service.

(1) Evidence of NP radiation exposure must be documented in the Veteran's service or medical records.

(2) This documentation requirement does not apply to Veterans who served as aviators in the active military, naval, or air service before the end of the Korean conflict or who underwent submarine training in active naval service before January 1, 1965.

(3) The Veteran is exempt from any copayment requirement for such care, including outpatient prescriptions, and is not required to be enrolled to receive such care.

(4) Veterans who received NP-radium irradiation treatment are not eligible to be enrolled in VA's system of patient enrollment based on NP radium irradiation exposure.

d. **Incarcerated Veterans.** Information about Incarcerated Veterans can be found at 38 C.F.R. § 17.38(c)(5).

e. **Medal of Honor Veterans.** Veterans who are recipients of the Medal of Honor are eligible for enrollment in Priority Group 1 and are eligible for the complete medical benefits package under 38 C.F.R. § 17.38. Veterans awarded the Medal of Honor are exempt from VA copayments.

**NOTE:** *Veterans seeking urgent care in the community may also be charged a copayment based on the frequency of urgent care visits. See 38 C.F.R. 17.4600 for additional information.*

f. **Purple Heart.** Veterans awarded the Purple Heart medal are eligible for enrollment in Priority Group 3 (unless otherwise eligible for placement in a higher Priority Group) and are eligible for the complete medical benefits package under 38 C.F.R. §17.38. **NOTE:** *Documentation of the Purple Heart medal can be verified using*

*the DD Form 214, DD Form 215, official service records, or military orders of award. A copy of this documentation must be sent to the HEC for confirmation.*

g. **Treatment at the Manila Outpatient Clinic.** Service-connected U.S. Veterans who receive services through the Manila VA Clinic are eligible for medical services, as determined by VA. Within the limits of available resources, the Director, of VISN 21, and the Director of the Manila VA Clinic, are responsible for providing services in accordance with 38 U.S.C. § 1724.

h. **Military Sexual Trauma.**

(1) Under 38 U.S.C. § 1720D, VA provides counseling, care, and services required to treat conditions that resulted from military sexual trauma (MST).

(2) To be eligible for MST-related care, individuals must either satisfy the definition of Veteran in 38 U.S.C. § 101(2) or be eligible for health care under 38 U.S.C. § 1720I.

(a) Veteran status requires an individual to have served in the active military, naval or air service and to have been discharged or released from such service under conditions other than dishonorable. Former Servicemembers do not have to meet the minimum active duty service requirement set forth in 38 U.S.C. § 5303A to receive MST-related care.

(b) Eligibility under 38 U.S.C. § 1702I also requires active military, naval, or air service. Eligibility criteria for health care under 38 U.S.C. § 1720I can be found in Appendix E of this directive.

(c) Reservists and National Guard members may have qualifying active military, naval or air service based on prior service in an active component of the Armed Forces, a federal activation under 10 U.S.C. § 12301 or due to a disability incurred during active duty for training or inactive duty training that is rated by VA to be service connected. Former Servicemembers are eligible for care related to MST that occurred during any duty period if the eligibility criteria above are met.

(d) If all other requirements have been met and VBA has not adjudicated the character of service discharge as a statutory bar to benefits, a former Servicemember with an Other Than Honorable (OTH) discharge is eligible for MST-related care and care must be provided while the character of service discharge is being adjudicated.

(3) Care for MST-related mental and physical health conditions is provided free of charge, without a copayment requirement.

(4) Eligible former Servicemembers are not required to enroll, file a disability claim, be service connected or provide material evidence of an MST incident to receive MST-related care. VHA health care providers may determine in their clinical judgment when a patient's condition is the result of MST. **NOTE:** For additional information on MST, see VHA Directive 1115, *Military Sexual Trauma (MST) Program*, dated May 8, 2018.

i. **Care for Veterans Participating in a Vocational Rehabilitation and Employment Program.** Veterans participating in a Vocational Rehabilitation and Employment Program are eligible to receive care and services necessary to develop, carry out and complete the services provided by the Vocational Rehabilitation and Employment Program.

(1) Veterans participating in a VA Vocational Rehabilitation and Employment Program are not exempt from copayments for inpatient, outpatient, prescription drug or extended care services, or third-party billing for care relating to nonservice-connected conditions. Billing actions should be taken when appropriate.

(2) The following steps must be followed by VA medical facilities to manage access to care for Veterans participating in a Vocational Rehabilitation and Employment Program:

(a) Verification of participation in an approved VA Vocational Rehabilitation and Employment Program, and request for treatment via an electronic request through CAPRI (preferred); or by using VA Form 28-8861, Request for Medical Services, Chapter 31, from VBA.

(b) Upon confirmation of participation in a Vocational Rehabilitation and Employment Program, a clinical review must occur to determine:

1. Whether the care or treatment is medically necessary.

2. Whether the care or treatment is needed to develop, carry out and complete the services provided by the Vocational Rehabilitation and Employment Program.

## **10. PRESUMPTIVE ELIGIBILITY FOR PSYCHOSIS AND OTHER MENTAL ILLNESS**

a. Certain Veterans who experience psychosis within a specified timeframe are to have the psychosis presumed to be service connected for purposes of VA medical benefits. **NOTE:** *For specific time frames, see 38 C.F.R. § 17.109(a).*

b. In addition, VA will presume that Persian Gulf War Veterans are service-connected for purposes of VA medical benefits if such Veterans develop mental illness other than psychosis within two years after discharge or release from service and before the end of the 2-year period beginning on the last day of the Persian Gulf War. **NOTE:** *The Persian Gulf period began August 2, 1990, and as of the publication of this directive has no end date. These presumptions are granted by law and are to be used solely for the purposes of receiving VA medical benefits for those conditions. These Veterans do not have to file a claim for service-connection with VBA or have received a formal grant of service-connection from VBA before invoking this presumption to receive treatment for these specific conditions.*

c. Eligibility criteria applicable to these presumptions are set out in Appendix D.

d. OTH Former Servicemembers are eligible for presumptive service-connected treatment for active psychosis or active mental illness other than psychosis provided no statutory bar applies and the eligibility and clinical criteria in Appendix D are met. The provisions in Paragraphs 10b.(1) through (4) below apply to OTH former Servicemembers who are eligible under this authority.

(1) VHA health care providers have wide latitude in exercising clinical judgment in determining whether a Veteran's condition developed within 2 years after discharge from service, as required. This is an individual clinical determination and has no bearing on adjudication of any disability claim for service connection. Veterans who qualify for this presumption do not have to be enrolled in VA health care to receive treatment for the psychosis or mental health illness other than psychosis or for conditions determined by the Veteran's VA health care provider to be associated with the Veteran's mental illness or psychosis. **NOTE:** *For example, the Veteran's Gastric ulcer or skin ulcer that is determined by the Veteran's VA health care provider to be associated with the Veteran's mental illness would be included in the treatment authorized under this authority. For additional information, see 38 C.F.R. § 17.37(k).*

(2) Veterans who qualify for this presumption are not required to meet the minimum active duty service requirement before VA provides all necessary treatment (including inpatient care) for the psychosis or mental illness other than psychosis. **NOTE:** *For clarification of VHA eligibility criteria, including COD requirements, see Paragraph 6.*

(3) No third party, copayment, or humanitarian billing is to be assessed for Veterans who are eligible to receive medical care under this paragraph.

(4) VA does not have the legal authority to utilize Community Care authorities to authorize servicemembers with OTH discharges care in the community at VA's expense. **NOTE:** *Questions concerning the criteria or procedures applicable to community care should be referred to the VA medical facility's Community Care office.*

(5) Referral to the local Readjustment Counseling Service (Vet Center) may also be an appropriate option for individuals who are Combat-Theater Veterans. **NOTE:** *For additional information on Vet Center services, see <http://www.vetcenter.va.gov/>.*

## **11. ELIGIBILITY FOR MENTAL AND BEHAVIORAL HEALTH SERVICES FOR OTHER THAN HONORABLE FORMER SERVICEMEMBERS**

a. Certain OTH former Servicemembers are eligible for an initial mental health assessment and mental health care and behavioral health care services required to treat mental or behavioral health care needs, including risk of suicide or harming others. Eligibility criteria are set out in Appendix D.

b. OTH former Servicemembers are eligible under this authority for an initial mental health assessment and the mental and behavioral health care services required to treat mental or behavioral health care needs provided no statutory bar applies and the eligibility criteria in Appendix D are met. The provisions in Paragraphs 10.d.(1) through (4) apply to OTH former Servicemembers eligible under this authority.

(1) OTH former Servicemembers eligible under this authority do not have to be enrolled in VA health care to receive treatment for mental and behavioral health care issues.

(2) OTH former Servicemembers are not required to meet the minimum active or reserve duty service requirement discussed in Paragraph 6.d.

(3) No third party, copayment, or humanitarian billing is to be created for OTH former servicemembers who are eligible to receive mental and behavioral health care under this Paragraph.

(4) OTH former servicemembers will receive needed VA mental and behavioral health care provided for in the medical benefits package. This does not include care in the community at VA's expense.

## 12. MENTAL HEALTH CARE SERVICES FOR MEMBERS OF THE RESERVE COMPONENTS

a. **Suicide Prevention.** All current members of the reserve components are eligible for suicide prevention care and treatment. VHA Directive 1160.07, Suicide Prevention Program, dated May 24, 2021, provides information on suicide prevention programs that are available to Veterans and Reservists. ***NOTE: Former members of the Reserves are also eligible if they have Veteran status.***

b. **Mental Health Care.** Current members of the Reserve Component and former servicemembers who served in a sensitive unit or participated in classified or sensitive missions as defined in 38 U.S.C. § 1720H are eligible for mental health care services and treatment. ***NOTE: Former servicemembers must have Veteran status.***

c. **Behavioral Health Care or Counseling through a Vet Center.** VHA Directive 1500(2), Readjustment Counseling Center, dated January 26, 2021, provides information on eligibility and readjustment counseling services.

## 13. OUTPATIENT DENTAL TREATMENT

VA medical facilities and selected Community Based Outpatient Clinics (CBOCs) provide outpatient dental services and treatment to eligible Veterans in accordance with statute and VA regulations. The eligibility for outpatient dental care is not the same as for most other VA medical benefits. The scope of care is determined by the patient's dental classification. ***NOTE: For additional information on dental eligibility, see 38 U.S.C. § 1710(c), 38 U.S.C. § 1712, 38 C.F.R. §§ 17.160 through 17.166, and VHA Directive 1130, Veterans Health Administration Dental Program, dated March 6, 2020.***

## 14. ELIGIBILITY FOR CARE IN A VA COMMUNITY LIVING CENTER

Veterans are eligible to receive care in VA Community Living Centers (CLCs) if they meet the nursing home eligibility criteria and if VA determines there is a need for a specific level of care and services available in a particular VA CLC. Certain Veterans

have mandatory eligibility for nursing home care, while other Veterans may be provided nursing home care on a space- and resource- available basis. **NOTE:** *Additional information about CLC eligibility can be found in 38 U.S.C. § 1710.*

a. Under 38 U.S.C. § 1710, extended care will be provided in a CLC to any Veteran who VA determines to need such care and who has:

(1) A singular or combined rating of 70 % or more based on one or more service-connected disabilities. This includes Veterans who have a service-connected rating of total disability based on individual unemployability (TDIU).

(2) Need of nursing home care for a service-connected disability.

b. All other Veterans may be provided needed nursing home care on a space- and resources- available basis if they agree to pay required copayments, if applicable.

**NOTE:** *Additional information on copayments, including copayment amounts and exemptions, can be found at 38 U.S.C. § 1710B(c)(2) and 38 C.F.R. § 17.111(f).*

c. Veterans are exempt from the copayment requirement for long-term care services if household income is below the single Veteran maximum annual pension rate. **NOTE:** *The current pension rates are listed at:*

<https://www.va.gov/HEALTHBENEFITS/apps/explorer/AnnualIncomeLimits/HealthBenefits>. *Additional exemptions to copayments for extended care services can be found at 38 C.F.R. § 17.111(f).*

## 15. NON-VETERAN BENEFICIARIES.

Additional eligibility information for the following specific categories of individuals can be found in the references below:

a. Beneficiaries of the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) see VHA Handbook 1601D.05, dated November 2, 2015.

**NOTE:** *For additional information on the CHAMPVA Program, see the VHA Office of Community Care page at:*

<https://www.va.gov/COMMUNITYCARE/programs/dependents/champva/index.asp>.

b. Allied beneficiaries, see VHA Directive 1601D.02, Treatment of Allied Beneficiaries, dated February 5, 2018.

c. Children of Vietnam Veterans with spina bifida or covered birth defects, and children of Veterans of covered service in Korea who have spina bifida, see 38 C.F.R. § 17.900-17.905. **NOTE:** *Additional information on the Spina Bifida Health Care Benefits Program, can be accessed using the following link:*

<https://www.va.gov/COMMUNITYCARE/programs/dependents/spinabifida/index.asp>.

*Additional information on the Children of Women Vietnam Veterans Health Care Benefits Program, can be accessed using the following link:*

<https://www.va.gov/COMMUNITYCARE/programs/dependents/cwvv/index.asp>.



d. In vitro fertilization treatment, see VHA Directive 1332(2), Infertility Evaluation and Treatment, dated June 20, 2017, and at <https://www.va.gov/COMMUNITYCARE/programs/veterans/IVF.asp>.

e. Live donors, see VHA Directive 2012-018, Solid Organ and Bone Marrow Transplantation, dated July 9, 2012, and at <https://www.va.gov/health/services/transplant/>.

f. Newborns, see VHA Handbook 1330.03, Maternity Health Care and Coordination, dated October 5, 2012, and at <https://www.womenshealth.va.gov/WOMENSHEALTH/outreachmaterials/GeneralHealthandWellness/maternity.asp>.

## **16. TREATMENT FOR EMERGENCY MEDICAL CONDITIONS**

If an individual who is not eligible for VA health care benefits comes to a VA medical facility with an emergency department and a request is made on behalf of the individual for examination or treatment for a medical condition, the VA medical facility must provide for an appropriate medical screening examination. An appropriate examination, within the capability of the emergency department, includes ancillary services routinely available to the emergency department to determine whether or not an emergency medical condition exists. If the VA medical facility determines that the individual has an emergency medical condition, the VA medical facility must provide for such further medical examination and such treatment as may be required to stabilize the medical condition using available hospital staff and facilities or must transfer the individual to another medical facility.

a. The patient must be stabilized prior to transfer unless delays would result in more significant problems, or:

(1) The individual or a legal representative requests a transfer to another facility in writing, after being informed of the obligations of the facility under the law and of the risk of transfer to another medical facility;

(2) A VA health care provider of the emergency department has signed a certification that, based upon the information available, the medical benefits reasonably expected from the provision of appropriate medical treatment at another medical facility outweigh the increased risks to the individual or unborn child, in the case of labor, that may result from the transfer;

(3) When a VA health care provider at a VA emergency department is not physically present at the time an individual is transferred, and a qualified medical professional has signed a certification described in Paragraph 16.a. above, then a VA health care provider of the emergency department, in consultation with the medical professional, has made the determination described in such clause, and subsequently countersigns the certification; or

(4) A VA health care provider has determined that transfer to another facility is appropriate.

b. Evaluation and emergency care provided to individual patients presenting to a VA medical facility emergency department or urgent care center must be consistent with all applicable standards and regulations. **NOTE:** See VHA Directive 1101.05(2), *Emergency Medicine*, dated September 2, 2016, for more information on VA emergency medical treatment. For additional information regarding examination and treatment for emergency medical conditions, see 38 U.S.C. § 1784A.

## 17. HUMANITARIAN CARE IN EMERGENCY CASES

a. VA may furnish hospital care or medical services as a humanitarian service in emergency cases but is required to charge for such care and services. 38 U.S.C. § 1784, 38 C.F.R. § 17.102. **NOTE:** *The determination of eligibility for benefits for patients with emergent conditions can be made after the initial examination and essential treatment. Based on the patient's medical condition, the examining physician determines whether an administrative interview is permitted and to what extent the patient may be questioned.*

b. Care under this authority may be provided to any person who presents in an emergency, regardless of eligibility for VA health care, Veteran status, etc.

c. Humanitarian Care for Ineligible Applicants with Emergent Conditions.

(1) If the applicant requires emergency care and has been determined to be administratively ineligible for enrollment, the applicant must be provided humanitarian emergency care, but only until the applicant's condition has stabilized and the applicant can be safely transferred to a community health care facility.

(2) Ineligible applicants receiving humanitarian emergency care may include the following:

(a) Non-Veterans, such as:

1. Visitors;

2. Family members; or

3. Persons with no military service.

(b) Applicants with an OTH discharge that has been adjudicated by VBA as to having a statutory bar to VA health care benefits.

1. Veterans who do not meet minimum active duty requirements, if applicable.

2. Veterans in a priority or sub-priority group, who are denied enrollment.

**NOTE:** For Applicants with an OTH discharge without a bar to VA health care benefits who are pending adjudication by VBA, see Appendix E. Additional information on billing for humanitarian emergency care can be found at 38 C.F.R. § 17.102(b).

(3) Individuals who ultimately are determined ineligible for VA health care are billed for the care and services they received. 38 U.S.C. § 1784, 38 C.F.R. § 17.102(a).

## 18. TRAINING

The following training is recommended for all VHA Enrollment and Eligibility staff:

a. Recent Changes to Mental Health Treatment for Individuals with OTH Character of Discharge (TMS-VA 4219759).

b. Process for VA Form 20-0986-Eligibility Determination for Character of Discharge Request Form (TMS-VA 4411010).

c. Additional recommended training is available on the KMS website and can be accessed at [https://vaww.vrm.km.va.gov/system/templates/selfservice/va\\_kanew/help/agent/locale/en-US/portal/55440000001046/content/554400000087163/HEC-Academy](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/55440000001046/content/554400000087163/HEC-Academy). **NOTE:** This is an internal VA website that is not available to the public.

## 19. RECORDS MANAGEMENT

All records regardless of format (paper, electronic, electronic systems) created in the requirements of this directive shall be managed per the National Archives and Records Administration (NARA) approved records schedules found in VHA Records Control Schedule 10-1. Any question regarding any aspect of records management, should be directed to the VA medical facility Records Manager or Records Liaison.

## 20. REFERENCES

- a. P.L. 104-262.
- b. 10 U.S.C. § 510
- c. 31 U.S.C. § 3711.
- d. 38 U.S.C. § 101.
- e. 38 U.S.C. § 1521.
- f. 38 U.S.C. § 1702.
- g. 38 U.S.C. § 1710.
- h. 38 U.S.C. § 1710(c).

- i. 38 U.S.C. § 1712.
- j. 38 U.S.C. § 1712A.
- k. 38 U.S.C. § 1720.
- l. 38 U.S.C. § 1720D.
- m. 38 U.S.C. § 1720H.
- n. 38 U.S.C. § 1720I.
- o. 38 U.S.C. § 1724.
- p. 38 U.S.C. § 1729.
- q. 38 U.S.C. § 1745.
- r. 38 U.S.C. § 1784.
- s. 38 U.S.C. § 1784A.
- t. 38 U.S.C. § 5303.
- u. 38 U.S.C. § 5303A.
- v. 38 C.F.R. § 3.12.
- w. 38 C.F.R. § 17.102.
- x. 38 C.F.R. § 17.105.
- y. 38 C.F.R. §§ 17.108 through-17.111.
- z. 38 C.F.R. §§ 17.160 through 17.166.
- aa. 38 C.F.R § 17.31
- bb. 38 C.F.R. § 17.34 through17.38.
- cc. 38 C.F.R. §§ 21.1 through21.43.0
- dd. VA Financial Policies and Procedures, Volume XII – Chapter 1B,  
<https://www.va.gov/finance/policy/pubs/volumeXII.asp>.
- ee. VHA Directive 1308, Health Outcomes Military Exposures Registry Programs,  
dated March 25, 2022.
- ff. VHA Directive 1101.05(2), Emergency Medicine, dated September 2, 2016.

- gg. VHA Directive 1115, Military Sexual Trauma (MST) Program, dated May 8, 2018.
- hh. VHA Directive 1130, Veterans Health Administration Dental Program, dated March 6, 2020.
- ii. VHA Directive 1140.11, Uniform Geriatrics and Extended Care Services in VA Medical Centers and Clinics, dated October 11, 2016.
- jj. VHA Directive 1301, Ionizing Radiation Registry (IRR) Program, dated April 6, 2017.
- kk. VHA Directive 1332(2), Infertility Evaluation and Treatment, dated June 20, 2017.
- ll. VHA Directive 1601A.01, Registration and Enrollment, dated July 7, 2020.
- mm. VHA Directive 1601D.02, Treatment of Allied Beneficiaries, dated February 5, 2018.
- nn. VHA Directive 1630(1), Catastrophically Disabled Veteran Evaluation, Enrollment, and Certain Copayment Exemptions, dated May 07, 2015.
- oo. VHA Directive 1909, Income Verification (IV) Program, dated June 10, 2020.
- pp. VHA Directive 2012-018, Solid Organ and Bone Marrow Transplantation, dated July 9, 2012.
- qq. VHA Handbook 1000.02, VHA Fugitive Felon Program, dated February 23, 2012.
- rr. VHA Handbook 1330.03, Maternity Health Care and Coordination, dated October 5, 2012.
- ss. VHA Handbook 1601D.05, Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA), dated November 2, 2015.
- tt. VHA Notice 2021-01(1), The Appeals Modernization Act, dated January 4, 2021.

### MINIMUM ACTIVE DUTY SERVICE REQUIREMENTS

a. The minimum active duty service requirement for VA health care benefits is the shorter of:

(1) 24 months of continuous active duty.

(2) Completion of the full period for which the individual was called or ordered to active duty, including Veterans that enlisted under the 15-month enlistment program.

**NOTE:** *Non-duty periods, including lost time noted on the DD Form 214 or the Veteran's Information Solution (VIS) that are excludable in determining VA health care benefits, are not considered as a break in service for continuity purposes but are to be subtracted from total time served. Fifteen Month Enlistments: Per 10 U.S.C. § 510, the Secretary of Defense was required to initiate a shortened enlistment program by October 1, 2003, under the National Call to Service initiative. Persons entering this program complete their basic and advanced training and their 15 months of active duty. Therefore, depending on their length of basic and specialty job training the actual length of enlistment can vary. Once this period is up, the individual has a choice to reenlist on active duty for a period specified in the original contract or go into the active National Guard or Reserves. Individuals who complete the time for which they were called to active duty under this enlistment satisfy the minimum active duty requirement.*

b. The minimum active duty service requirement applies to the following:

(1) Individuals who enlisted in the Armed Forces for the first term of active duty after September 7, 1980.

(2) Individuals who originally signed up under a delayed entry program on or before September 7, 1980, and who subsequently entered active duty after that date.

(3) Any other person (officer as well as enlisted) who entered active duty after October 16, 1981, and who has:

(a) Not previously completed at least 24 months of continuous active duty service.

(b) Not previously been discharged or released from active duty under 10 U.S.C. § 1171.

(4) Reservists and National Guard activated under 10 U.S.C. § 12301 must also satisfy the minimum active duty service requirements.

c. Exceptions to Minimum Active Duty Requirements. Minimum active duty service requirements do not apply to individuals:

(1) Discharged or released for reason of early out under 10 U.S.C. § 1171.

- (2) Discharged or released for reason of hardships under 10 U.S.C. § 1173.
- (3) Discharged or released for reason of disability(ies) incurred or aggravated in line of duty.
- (4) Diagnosed with a VA-rated compensable service-connected disability.
- (5) Provided a benefit for, or in connection with, a service-connected disability, condition, or death.
- (6) Seeking care only for mental or physical health conditions related to military sexual trauma, as described in Paragraph 9.h.

d. Acceptable Documentation of Minimum Active Duty Service Requirements.

- (1) Acceptable documentation of minimum active duty service requirements, in addition to a DD Form 214 or a pre-1950 military certificate of discharge, includes:
  - (a) Proof of discharge under 10 U.S.C. § 1171 where a member of the Armed Forces may be discharged within 1 year before the expiration of the term of enlistment or extended enlistment.
  - (b) The narrative reason on the DD Form 214 specifies Overseas Returnee.
  - (2) Veterans Benefits Administration (VBA) confirmation of eligibility under 10 U.S.C. § 1171 is needed if the DD Form 214 narrative shows the following as a reason for discharge:
    - (a) Convenience of the government.
    - (b) Unit inactivation.
    - (c) Secretarial authority.
    - (d) Physical disqualification for duty in Military Occupational Specialty (MOS).
    - (e) Hardship due to disability.

**PROOF OF MILITARY SERVICE**

Document	Description
DD Form 214, Armed Forces of the United States Report of Transfer or Discharge	The official certificate of release or discharge paper from the military used to support a Veteran's eligibility for VA health care benefits
DD Form 215, Correction to DD Form 214, Certificate of Release or Discharge from Active Duty	This is an amended DD Form 214. It may reflect a correction of original DD Form 214
DD Forms 256A, 256AF, 256N, or 256MC, Honorable Discharge Certificate	The DD Form 256 must indicate a period of active duty service dates.
NA Form 13038, Certification of Military Service	The official certificate provided by the National Archives, National Personnel Records Center, to verify active duty service when the original DD Form 214 is lost, destroyed or illegible.
NAVPERS 553, Notice of Separation from U.S. Naval Service	
NAVMC 553, Notice of Separation from U.S. Marine Corp and  NAVCG 553, Notice of Separation from U.S. Coast Guard	



Document	Description
Award Letter	An official notification letter to a Veteran from the Regional Office (RO) informing the Veteran of the decision regarding Compensation and Pension
War Department (WD) for Adjutant Generals Office (AGO) Form 53-55, Enlisted Record and Report of Separation - Honorable Discharge  WD AGO Form 53-98, Military Records and Report of Separation Certificate of Service  WD AGO Form 53, Enlisted Record and Report of Separation Honorable Discharge  WD AGO Form 55, Honorable Discharge from The Army of the United States	Discharge and enlistment record documents prior to establishment of DD Forms 214, commonly used for World War II and Korean records of active duty
WD AGO Form 280, Certificate of Service, Army Veterinary Service (AVS)	

Document	Description
Rating Decision	<p>An official notification to a Veteran from the RO after a decision is made regarding the Veteran's claim</p> <p><b><i>NOTE: An award letter often accompanies the rating decision</i></b></p>

## ELIGIBILITY FOR OUTPATIENT DENTAL CARE

If you:	You are eligible for:	Through
Have a service-connected compensable (10% or greater) dental disability or condition.	Any needed dental care	Class I
Are a former prisoner of war?	Any needed dental care.	Class II(c)
Have service-connected disabilities rated at 100 % (total) disabled or are unemployable and paid at the 100 % due to service-connected conditions.	Any needed dental care. <b>NOTE:</b> <i>Veterans paid at the 100 % rate based on a temporary rating, such as extended hospitalization for a service-connected disability, convalescence or pre-stabilization are not eligible for comprehensive outpatient dental services based on this temporary rating.</i>	Class IV
Request dental care within 180 days of discharge or release (under conditions other than dishonorable) from a period of active duty of 90 days or more.	One-time dental care if your DD Form 214, certificate of discharge or release, does not indicate that a complete dental examination and all appropriate dental treatment had been rendered prior to discharge.*	Class II
Have a service-connected non-compensable dental condition or disability resulting from combat wounds or service trauma.	Any dental care necessary to provide and maintain a functioning dentition. A Dental Trauma Rating (VA Form 10-564-D) or VA Regional Office Rating Decision letter (VA Form 10-7131) identifies the tooth/teeth/condition(s) that are trauma rated.	Class II(a)

If you:	You are eligible for:	Through
Have a dental condition clinically determined by VA to be associated with and aggravating a service-connected medical condition.	Dental care to treat the oral conditions that are determined by a VA dental professional to have a direct and material detrimental effect to your service-connected medical condition.	Class III
Are actively engaged in a Title 38, U.S.C. § 31, Vocational Rehabilitation and Employment Program.	<p>Dental care to the extent necessary as determined by a VA dental professional to:</p> <p>Make possible your entrance into a rehabilitation program</p> <p>Achieve the goals of your vocational rehabilitation program</p> <p>Prevent interruption of your rehabilitation program</p> <p>Hasten the return to a rehabilitation program if you are in an interrupted or leave status</p> <p>Hasten the return to a rehabilitation program of a Veteran placed in discontinued status because of illness, injury or a dental condition, or</p> <p>Secure and adjust to employment during the period of employment assistance, or</p> <p>Enable you to achieve maximum independence in daily living.</p>	Class V
Are receiving VA care or are scheduled for inpatient care and require dental care for a condition complicating a medical condition currently under treatment.	Dental care to treat the dental conditions that are determined by a VA dental professional to complicate your medical condition currently under treatment.	Class VI

If you:	You are eligible for:	Through
Are enrolled in a qualifying homeless residential rehabilitation program for at least 60 days.	A one-time course of dental care that is determined medically necessary to relieve pain, assist you to gain employment, or treat moderate, severe, or complicated and severe gingival and periodontal conditions.	Class II(b)

**NOTE:** P.L. 83 enacted June 16, 1955, amended Veterans' eligibility for outpatient dental services. As a result, any Veteran who received a dental award letter from VBA dated before 1955 in which VBA determined the dental conditions to be noncompensable are no longer eligible for Class II outpatient dental treatment.

**ELIGIBILITY FOR PRESUMPTIVE PSYCHOSIS AND OTHER MENTAL ILLNESS**

a. **Psychosis.** Eligibility for benefits is established by 38 C.F.R. § 17.109(a) for treatment of active psychosis, and care for such condition is exempted from copayments under 38 C.F.R. § 17.108, 17.110, and 17.111 for any Veteran who served in the United States active military, naval, or air service in World War II, the Korean conflict, the Vietnam era, or the Persian Gulf War and developed such psychosis:

(1) Within 2 years after discharge or release from the active military, naval or air service; and

(2) Before the following date associated with the war or conflict in which the Veteran served:

<b>Veteran Served During</b>	<b>Date:</b>
World War II	July 26, 1949
Korean Conflict	February 1, 1957
Vietnam Era	May 8, 1977
Persian Gulf War	End of the 2-year period beginning on the last day of the Persian Gulf War (end date of the Persian Gulf War is not determined as of the date of publication of this directive)

b. **Mental Illness (other than Psychosis).** Eligibility for benefits is established by 38 C.F.R. § 17.109(b) for treatment of an active mental illness (other than psychosis), and such condition is exempted from copayments under 38 C.F.R. § 17.108, 17.110, and 17.111 for any Veteran of the Persian Gulf War who developed such mental illness:

(1) Within 2 years after discharge or release from the active duty military, naval, or air service; and

(2) Before the end of the 2-year period beginning on the last day of the Persian Gulf War (end date of the Persian Gulf War is not determined as of the date of publication of this directive).

c. **No minimum service required.** Eligibility for care and waiver of copayments will be established for presumptive eligibility for psychosis and mental illness other than psychosis without regard to the Veteran's length of active-duty service.

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**ELIGIBILITY FOR MENTAL AND BEHAVIORAL HEALTHCARE FOR OTHER THAN  
HONORABLE FORMER SERVICEMEMBERS**

a. **Mental and Behavioral Healthcare.** Eligibility for benefits under 38 U.S.C. § 1720I is established as follows:

If the OTH former Servicemember (including members of the Reserves):	And either:	And is NOT:	The OTH former Servicemember is eligible to receive:	If the OTH former Servicemember is in an acute suicidal crisis, as determined by a health care provider:
<p>Served in the active military, naval, or air service, and was discharged or released under a condition that is not dishonorable or by court martial.</p> <p>AND</p> <p>The Veterans Benefit Administration (VBA) has not adjudicated the OTH character of service discharge as a statutory bar to benefits (VBA COD Determination Code 12C).</p>	<p>Served more than 100 cumulative days, and deployed in: (1) a theater of combat operations, (2) in support of a contingency operation, or (3) in an area at a time during which hostilities are occurring in that area during such service, including by controlling an unmanned aerial vehicle from a location other than such theater or area</p> <p>OR:</p> <p>Was a victim of (1) physical assault of a sexual nature, (2) battery of a sexual nature, or (3) sexual harassment as it is stated and used in 38 U.S.C. § 1720D(f).</p>	<p>Enrolled in VA's health care system established by 38 U.S.C. § 1705</p>	<p>An initial mental health assessment</p> <p>AND</p> <p>The mental health care and behavioral health care services included in the medical benefits package, 38 C.F.R. § 17.38, that are required to treat mental or behavioral health care needs, including risk of suicide or harming others.</p>	<p>Emergent suicide care for medical and mental health services related to the acute crisis which may include up to 30 days of inpatient or crisis residential care.</p> <p>AND</p> <p>Up to 90 days of outpatient care.</p> <p>NOTE: All related charges and copays will be waived for the eligible individual when provided care.</p> <p>Periods of care may be extended if the individual remains in an acute suicidal crisis, and VA determines extending care is clinically appropriate.</p>



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b. **Copayment Exemption.** Care under 38 U.S.C. § 1720I is exempted from copayments.

**ACCESS FOR EMERGENT MENTAL HEALTH SERVICES FOR FORMER  
SERVICEMEMBERS**

a. To facilitate eligibility determinations, Members Services is coordinating with Enrollment Coordinators and VISN Business Implementation Managers (BIMs) to ensure staff with access to the Veterans Information Solution (VIS) are available 24/7 (Enrollment, Emergency Departments (ED)), Administrative Officers of the Day (AOD). Enrollment and Eligibility staff at VA medical facilities can access the Beneficiary Identification Records Locator Subsystem (BIRLS) database in the VIS to view COD.

b. If an individual has a Bad Conduct Discharge (BCD) or a Dishonorable Discharge (DD), that information will generally be available to determine eligibility. If the individual had a BCD that was subsequently adjudicated by VBA to be Honorable for VA purposes, this would be available in the VIS as well.

c. Additionally, the Compensation and Pension (C&P) screen within VIS will display disability determination information made by VBA. Within the C&P screen, select the Disabilities screen and the Diagnostics/Combined tab will display VBA decisions regarding service connection. The Additional Rating Inf tab will display VBA decisions pertaining to Chapter 17 (38 C.F.R. § 3.360) and 38 U.S.C. § 1702 benefits. Enrollment coordinators may consider any of the verified statuses in making tentative eligibility determinations as follows:

Individual is not enrolled in VA Health Care and Discharge Status listed in the system is:	VBA Information Systems Show:	Consider Eligibility Status for Tentative Eligibility for emergent mental health care as:
HON	Verified	Consider whether the individual is eligible for enrollment or other special treatment authority, if not eligible, they are eligible for tentative eligibility.
UHC	Verified	Consider whether the individual is eligible for enrollment or other special treatment authority, if not eligible, they are eligible for tentative eligibility.

Individual is not enrolled in VA Health Care and Discharge Status listed in the system is:	VBA Information Systems Show:	Consider Eligibility Status for Tentative Eligibility for emergent mental health care as:
HVA	Verified	Consider whether the individual is eligible for enrollment or other special treatment authority, if not eligible, they are eligible for tentative eligibility.
12C	Verified	Not Eligible
12D	Verified	Eligible for Tentative Eligibility unless the C&P tab indicates the Mental Health condition is found to not be service-connected.
DIS	Verified	Not Eligible
DVA	Verified	Unless a statutory bar applies, eligible for Tentative Eligibility unless the C&P tab indicates the Mental Health condition is found to not be service-connected.
OTH (multiple periods of service)	N/A	Check for other eligible period, if no other eligible period, eligible for Tentative Eligibility unless the C&P tab indicates the Mental Health condition is found to not be service-connected.
OTH (only period of service)	N/A	Eligible for Tentative Eligibility unless the C&P tab indicates the Mental Health condition is found to not be service-connected.
UNK	N/A	Humanitarian until discharge status can be verified with VBA.

# 1. PRESENTATION OF REFERRAL FOR SERVICES VIA THE VETERAN CRISIS LINE OR VISITING THE VA EMERGENCY ROOM, OUTPATIENT CLINIC OR VET CENTER

## a. Ineligible Former Servicemember.

(1) An Ineligible Former Servicemember presenting under emergent circumstances will be evaluated and stabilized.

(2) If found to need inpatient services, the Ineligible Former Servicemember may be placed in any acute bed for stabilization. Discharge planning should begin upon admission and a care plan will be developed using community resources, beginning with a referral to a Vet Center. Under 38 C.F.R. § 17.2000(c), upon request, a Vet Center will provide an individual who does not meet the eligibility requirements for Vet Center counseling with referral services “to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside VA.”

(3) Once the Ineligible Former Servicemember is stabilized without the need for further inpatient care, they will be contacted by a VA health care provider, and a referral made to a Vet Center or community resources, when available. Under 38 C.F.R. § 17.2000(c), upon request, a Vet Center will provide an individual who does not meet the eligibility requirements for Vet Center counseling with referral services to assist such individual, to the maximum extent practicable, in obtaining mental health care and services from sources outside VA.

**b. Other than Honorable (OTH) Former Servicemembers.**

(1) An OTH former Servicemember seeking mental health care in emergency circumstances for a mental health condition the former Servicemember asserts is, or a VA health care provider reasonably believes may be, related to military service qualifies for tentative eligibility under 38 C.F.R. § 17.34, as described in Paragraph 5 of this directive, for mental health care.

(2) OTH former Servicemembers may also be eligible to receive care under presumptive eligibility for psychosis or other mental illness, 38 U.S.C. § 1702 and 38 C.F.R. § 17.109, as described in Paragraph 10 of this directive, and mental and behavioral health care under 38 U.S.C. § 1720I, as described in Paragraph 11 of this directive.

(3) OTH former Servicemembers receiving emergent mental health care under tentative eligibility are eligible to receive stabilization within the VA system for a mental health emergency, including inpatient treatment.

(4) If found to need inpatient services, the individual may be placed in any acute bed for stabilization. Discharge planning should begin upon admission. A care plan will be developed using resources within the VA system.

(5) Follow-up care for a mental health emergency will be authorized within the VA system for an episode of care of up to 90 days.

(6) If stabilized without the need for inpatient care but the mental health emergency persists, the Veteran will be given an appointment within VA's health care system.

(7) Follow-up outpatient, residential, and inpatient mental health and substance use disorder services may be provided for a mental health emergency for an episode of care of up to 90 days, with social work engagement to coordinate with treating VA health care provider a community transition to longer-term services, if needed.

(a) An episode of care can include mental health services in general and services at specialized outpatient mental health clinics; residential treatment programs; inpatient treatment units; or in other VA care settings.

(b) Services may include assessment, medication management/pharmacotherapy, lab work, case management/care coordination, psycho-education, and psychotherapy.

(c) Any condition associated with the emergency mental health illness should be considered as treatment under this episode of care. Care provided that is ultimately found to not be proximately due to or the result of a service-connected mental health condition will result in billing.

(d) A request for a second episode of care of up to 90 days must be submitted to the VISN Chief Medical Officer for approval. Approval will be based on a review of the treatment team's request, treatment notes and annotation of treating notes in the EHR.

**2.** A former Servicemember with an OTH discharge who has yet to have a VBA determination for VA health care eligibility is generally not to receive more than 180 days of care in a 365-day period on a tentative eligibility basis. If VBA adjudication is not complete within 180 days, or the OTH former Servicemember has not been stabilized for community transition, the VISN Chief Medical Officer may authorize additional care. In general, it is anticipated a final determination regarding eligibility will have been made by the agency of original jurisdiction. In the instance of additional time delays due to extensive development of information pertaining to the facts and circumstances surrounding the military characterization of discharge, VBA will inform VA health eligibility of such delay that is beyond agency control.

### **3. PRESENTATION OF REFERRAL FOR SERVICES VIA COMMUNITY BASED OUTPATIENT CENTER**

#### **a. Ineligible Former Servicemember.**

(1) An Ineligible Former Servicemember presenting under emergent circumstances will be evaluated and stabilized at the CBOC if possible, or if stabilization is not possible, then the individual will be sent to the closest receiving Emergency Department for evaluation and stabilization.

(2) VA does not have the legal authority to utilize Community Care authorities to authorize ineligible former Servicemembers care in the community at VA expense.

#### **b. Other than Honorable Former Servicemembers.**

(1) An OTH former Servicemember, seeking mental health care in emergency circumstances for a mental health condition the former Servicemember asserts, or a VA health care provider reasonably believes that it may be, related to military service qualifies for tentative eligibility under 38 C.F.R. § 17.34, as described in Paragraph 5 of this directive, for mental health care. **NOTE:** *As defined in this directive, an OTH former Servicemember is a former Servicemember with an OTH administrative discharge whose eligibility for health care and benefits under title 38, United States Code, has not yet been finally adjudicated by the agency of original jurisdiction. The VA health care provider does not decide service connection when providing care.*

(2) OTH former Servicemembers may also be eligible to receive care under presumptive eligibility for psychosis or other mental illness, 38 U.S.C. § 1702 and 38 C.F.R. § 17.109, as described in Paragraph 10 of this directive, and mental and behavioral health care under 38 U.S.C. § 1720I, as described in Paragraph 11 of this directive.

(3) OTH former Servicemembers receiving emergent mental health care under tentative eligibility are eligible to receive stabilization within the VA system for a mental health emergency, including inpatient treatment.

(4) Follow-up care for a mental health emergency will be authorized within the VA system for an episode of care of up to 90 days.

(5) Unless a contract is in place, VA does not have the legal authority to utilize Community Care authorities to authorize OTH former Servicemembers care in the community at VA expense. At the first available opportunity, the OTH Former Servicemember should be brought back into the VA system for inpatient treatment or follow-up care at the CBOC.

(6) Once stabilized in the community, if the mental health emergency persists, follow-up outpatient, residential, and inpatient mental health and substance use disorder services may be provided for an episode of care of up to 90 days. Social work services will work with the treating VA health care provider to appropriately coordinate transition to the community for longer-term services, if needed.

(a) An episode of care can include mental health services in general specialized outpatient mental health clinics; residential treatment programs; inpatient treatment units; or in other VA care settings.

(b) Services may include assessment, medication management/ pharmacotherapy, lab work, case management/care coordination, psycho-education, and psychotherapy.

(c) Any condition associated with the mental health illness should be considered as treatment under this episode of care.

(d) The VISN Chief Medical Officer must approve a second episode of care of up to 90 days. This will be based on a review of the treatment teams' request, treatment notes and annotation of treating notes in the EHR.

(e) A former Servicemember with an OTH discharge who has yet to have a VBA determination for VA health care eligibility is generally not to receive more than 180 days of care annually on a tentative eligibility basis. If VBA's adjudication is not complete within 180 days, the VISN Chief Medical Officer may authorize additional care if the OTH Former Servicemember cannot be stabilized within the 180 days for transfer to the community. In general, it is anticipated that a final determination regarding eligibility will have been made by the agency of original jurisdiction. In the instance of additional time delays due to extensive development of information pertaining to the facts and circumstances surrounding the military characterization of discharge, VBA will inform VA health eligibility of such delay that is beyond agency control.

## COMBAT VETERAN ELIGIBILITY DETERMINATION

The Department of Veterans Affairs (VA) utilizes the Department of Defense (DoD) Combat Zones listing of designated hostile fire or imminent danger pay areas. Although DoD Hostile Fire or Imminent Danger pay existed prior to November 11, 1998, only proof of such pay after November 11, 1998, is acceptable. **NOTE:** *The table provided at the link below should assist in the determination of combat Veteran eligibility.*

a. **Combat Veteran.** A Combat Veteran is a Veteran who served on active duty in a theater of combat operations during a period of war after the Persian Gulf War or in combat against a hostile force during a period of hostilities after November 11, 1998.

b. **Combat Zones.** Combat zones are designated by an Executive Order from the President as areas in which the United States Armed Forces are engaging or have engaged in combat. An area usually becomes a combat zone and ceases to be a combat zone on the dates the President designates by Executive Order.

c. **Period of Hostilities.** The term period of hostilities is determined in consultation with the Secretary of Defense.

**NOTE:** *The term “hostilities” was previously defined in 38 U.S.C. § 1712A(a)(2)(B) to mean “an armed conflict in which the members of the Armed Forces are subjected to danger comparable to the danger to which members of the Armed Forces have been subjected in combat with enemy armed forces during a period of war, as determined by the Secretary [of Veterans Affairs] in consultation with the Secretary of Defense.” This definition was removed from 38 U.S.C. § 1712A by section 727 of P.L. 112-239, the National Defense Authorization Act for Fiscal Year 2013.*

d. Proof of service in a theater of combat operations or in an area during a period of hostilities in that area will be established by:

(1) A DD Form 214 (Certificate of Release or Discharge from Active Duty) containing notations of service in a designated theater of combat operations; or

(2) Receipt of one of the following medals: The Armed Forces Expeditionary Medal, Service Specific Expeditionary Medal (e.g., Navy Expeditionary Medal), Combat Era Specific Expeditionary Medal (e.g., the Global War on Terrorism Expeditionary Medal), Campaign Specific Medal (e.g., Iraq Campaign Medal), or other combat theater awards established by public law or executive order or

(3) Proof of receipt of Hostile Fire or Imminent Danger Pay (commonly referred to as “combat pay”) or combat tax exemption after November 11, 1998.

e. **Hostilities or Imminent Danger Pay.** Hostile fire pay is defined as pay to anyone exposed to hostile fire or mine explosion, while imminent danger pay is paid to anyone



on duty outside the United States area who is subject to physical harm or imminent danger due to wartime conditions, terrorism, civil insurrection, or civil war.

f. **Medals.** Afghanistan Campaign Medal, Iraq Campaign Medal, Armed Forces Expeditionary Medal; Global War on Terrorism Expeditionary Medal (does not include Global War on Terrorism Medal); Kosovo Campaign Medal; Southwest Asia Campaign Medal; and other DOD-authorized combat related medals.

**NOTE:** *This listing is current as of the date of publication of this Directive. For the most current listing see <http://www.va.gov/healthbenefits/resources/publications.asp>.*